

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)	MM Docket No. 93-89
AURIO A. MATOS)	File No. BPH-911114MS
LLOYD SANTIAGO-SANTOS and LOURDES)	
RODRIGUEZ-BONET)	File No. BPH-911115MP
For Construction Permit for a New)	
Station on Channel 293A in)	
Culebra, Puerto Rico)	

RECEIVED

AUG 12 1993

To: Honorable Joseph P. Gonzalez
Administrative Law Judge

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PARTIAL OPPOSITION TO WITNESS NOTIFICATION

Aurio A. Matos ("Matos"), by his counsel and pursuant to the Presiding Judge's Order, FCC 93M-166, released April 15, 1993, partially opposes the contingent witness notification request filed by Lloyd Santiago-Santos and Lourdes Rodriguez-Bonet ("Santiago and Rodriguez"), and states as follows:

1. On August 10, 1993, applicants Matos and Santiago and Rodriguez were required to file witness notification requests. Matos requested that Santiago and Rodriguez be made available at the trial so that they could be cross-examined on the assertions contained in their Written Direct Case exhibits. Matos argues that there were questions of decisional significance requiring the presence of the two sponsoring witnesses to resolve.

2. Santiago and Rodriguez filed what can only be described as a "Contingent Witness Notification Request." Basically, they state that they "do not require Aurio A. Matos for cross-examination." However, if Santiago and Rodriguez are required to appear for cross-examination at the hearing, then they claim that

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Matos should be required to appear as well. The "quid pro quo" that Santiago and Rodriguez suggests is not an argument for ordering Matos to appear. Santiago and Rodriguez admit that they do not believe Matos' oral testimony to be necessary. Whether or not Santiago and Rodriguez have to appear has no bearing on that conclusion.

3. Santiago and Rodriguez failed to affirmatively assert why Matos' testimony is necessary as the Commission requires. In its Comparative Hearing Reform Order, 68 RR 2d 944 (1990), the Commission states that ALJ's should not allow oral cross-examination testimony unless "material issues of decisional fact cannot adequately be resolved without oral evidentiary hearing procedures" and witnesses should not be called unless "there is a legitimate expectation that some part of the direct testimony...is subject to a question of substantial decisional significance." Id. at ¶ 36. Santiago and Rodriguez' "quid pro quo" argument does not satisfy the Commission test, so Matos should not have to appear at the hearing for cross-examination purposes.


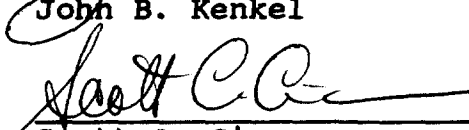
Respectfully submitted,

AURIO A. MATOS

Kenkel & Associates
1901 L Street, N.W.
Suite 200
Washington, D.C. 20036

(202) 659-4401

August 12, 1993


John B. Kenkel

Scott C. Cinnamon
His Counsel

CERTIFICATE OF SERVICE

I, Scott Cinnamon, do certify that on this 12th day of August, 1993, a copy of the foregoing was sent via first class mail, postage pre-paid or delivered, as indicated, to the parties set forth below:

Honorable Joseph P. Gonzalez
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W.
Room 221
Washington, D.C. 20554 *

Gary Schonman, Esq.
Hearing Branch
Federal Communications Commission
STOP CODE 1800C4
2025 M Street, N.W., Room 7212
Washington, D.C. 20554 *

Audrey P. Rasmussen, Esq.
O'Connor & Hannan
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006 *



Scott Cinnamon

* - Hand delivered